GOVERNMENT OF INDIA
PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS
LOK SABHA

UNSTARRED QUESTION NO:4522
ANSWERED ON:18.12.2002
WITHDRAWN OF RELAXATION IN PROMOTION
A. KRISHNASWAMY;A.K.S. VIJAYAN

Will the Minister of PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS be pleased to state:

(a) whether it is a fact that before the DoPT`s O.M. dated August 22, 1997, the SC/ST Section Officers and Assistants of CSS were given four years relaxation in their promotion and those were withdrawn unilaterally with the concurrence of a junior level officer in the Law Ministry and without consulting the National Commission for SC/STs;

(b) if so, the reasons therefor;

(c) whether the Government has restored those relaxations in pursuance to Constitution (82nd) Amendment Act, 2000;

(d) if not, the reasons therefor and by when it is likely to be restored;

(e) whether the Government are aware of the fact that the Attorney General of India and the Law Ministry have opined for restoration; and

(f) if so, the action taken by the Government against those officials and the reasons for not honouring the commitment given by the Government to restore the relaxations as existing prior to August 22, 1997?

Answer

THE MINISTER OF STATE OF THE MINISTRY OF SMALL SCALE INDUSTRIES, MINISTER OF STATE IN THE MINIS PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS, MINISTER OF STATE IN THE MINISTRY OF PLANNING AND M OF STATE IN THE DEPARTMENTS OF ATOMIC ENERGY AND SPACE. (SMT.VASUNDHARA RAJE)

(a) to(f): A statement is annexed.

ANNEXE

STATEMENT REFERRED TO IN REPLY TO PARTS (a) TO (f) OF THE LOK SABHA UNSTARRED QUESTION NO. 4522 ANSWER ON 18.12.2002

(a) to (f): The amendment to Rule 12 (2),rule 13 (2) and Regulation 2 in the Fourth Schedule of the Central Secretariat Service (CSS) Rules, 1962, carried out vide notification dated 08th March, 1999, was made broadly on the following grounds:

(i) The Supreme Court in the case of S. Vinod Kumar Vs. UOI held that the provision for lower qualifying marks/lesser level of evaluation in the matter of promotion in favour of candidates belonging to Scheduled Castes and Scheduled Tribes was not permissible under Article 16(4) of the Constitution. In pursuance of this judgement, this Department issued O.M. dated 22.07.1997, rescinding the earlier instruction, clarifying that there shall be no separate standard of evaluation for SC/ST officers for promotion and assessment of all the candidates for this purpose would be with reference to uniform standards;

(ii) Lower qualifying service as distinct from lower qualifying marks/lesser standards of evaluation in the matter of promotion has not been provided under the general policy on reservation;

(iii) It was considered necessary in as much as seniority could not be substituted for eligibility and therefore a person should gain the uniform minimum experience in the feeder grade to be eligible for promotion to shoulder higher responsibility.

The aforesaid amendment was carried out after consultation with the Union Public Service Commission (UPSC) and the Ministry of Law (Legislative Department) apart from intra departmental consultations.

In pursuance of the 82nd Amendment Act, 2000, the Department of Personnel & Training issued an OM dated 03.10.2000, restoring with immediate effect, the relaxations/concessions in the matter of promotion of SC/ST candidates by way of lower qualifying marks/lesser standards of evaluation that existed prior to their instructions dated 22.07.1997. Accordingly, the related provisions of CSS Rules were restored w.e.f. 03.10.2000 by way of carrying out requisite amendments.

On the question of restoring the provision relating to relaxation in the length of eligibility service, Ministry of Law had been consulted and the advice of the Attorney General (A.G.) was obtained. However, it has been considered necessary to seek the advice of A.G. again.